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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,165	07/03/2003	James E. Skavnak	424.155USU1	9163
23552	7590	03/22/2005	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			NOLAND, KENNETH W	
			ART UNIT	PAPER NUMBER
			3653	

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/613,165	SKAVNAK, JAMES E.
	<b>Examiner</b>	<b>Art Unit</b>
	Kenneth W Noland	3653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on \_\_\_\_.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-19 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 1-9 is/are allowed.
- 6) Claim(s) 10-14 and 16-18 is/are rejected.
- 7) Claim(s) 15 and 19 is/are objected to.
- 8) Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    - a) All    b) Some \* c) None of:
      1. Certified copies of the priority documents have been received.
      2. Certified copies of the priority documents have been received in Application No. \_\_\_\_.
      3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03-16-05</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: ____.                                    |

Art Unit: 3653

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 10, 12, 13 and 18 are rejected under 35 U.S.C. 102(\*b\*\*) as being \*\*anticipated\* by \*Rakucewicz . Rakucewicz shown in figures 3 and 4 the apparatuses to effect the method of having a pair of front engaging members 20,24 to engage the first item and a pair of rear engaging members 18,22 to engage a second item. The pair of front and rear members are driven by cooperating actuators (figure6) to cause the pair of front and rear members to retain and release the first and second items by simultaneous movement of the pair of members. \*\*.
3. Claims 10, 12, 13, 14, and 18 are rejected under 35 U.S.C. 102(\*\*b\*) as being \*\*anticipated\* by \*Feltrin. Feltrin shows in figure 3 the apparatus to effect the method of having\*the rockers (5a,5b) with pair of front and rear engaging members, as at the lower and upper ends of the rockers . The pair of front and rear members would act to retain and release first and second items by simultaneous movement of the pair of members. Note in figure 1 the actuator comprising of cam members 14\*.
4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 10-13,16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over \*Sorensen et al in view of Rakucewicz. Sorensen et al discloses both the apparatus and the method of vending products of varied shapes (see the abstract).. Note in figures 13a-13d the use of a front engaging member 116 and the use of a rear engaging member 113.\*The front and rear members would act to retain and release first and second items(products) by movement of the members\*.Note in column 18 ,lines 41-45 the 'fast acting' movement of the member 116 (claim 11). To modify Sorenson et al's vending device for another front and rear member positioned on the other side of the product would be obvious in view of the teachings of Rakucewize's use of such a pair of front members 20,24 and a pair of rear members 18,22 acting on both sides of the product so as to effect improved control and handling of the dispensing of the product.

6. Claims 15 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. Claims 1-9 are allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth W Noland whose telephone number is (703) 308-3200. The examiner can normally be reached on Monday-Thursday, each week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald Walsh can be reached on (703) 306-4173. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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*Kenneth W. Noland* 3/16/2005  
KENNETH W. NOLAND  
PRIMARY EXAMINER